

Subject: 21st century strategic plan

I have the following comments:

1.4: Please bear in mind that in some countries, e.g., India, individuals may not have both a family name and a given name.

1.27: The amendment to change "standards" to "size standards" should be made retroactive to the effective date of the first small entity regulations. That would be consistent with the position taken back in 1982, that inclusion of 13 CFR 121.105 in the small entity definition for patent purposes would violate the Paris Convention. If the amendment is not made retroactive, it will lend support to those who have argued that present law requires compliance with 121.105, at it would imply that the amendment is a change of law, not a clarification of the existing law. The MPEP already states that foreign small business entities are entitled to small entity status.

1.57: I strongly approve of this change. I thought it ridiculous that the substantive effect of reference to a prior application should be determined by whether magic words like "hereby incorporated by reference" appeared in the document--especially since under European law, incorporation by reference is improper, so European origin applications would not include such language.

1.98: I would like to see 1.98(b)(2) amended to specify that the required publication date is only a publication year, or at least that the publication month is required only if it appears on the face of the document. I realize that the publication month can become relevant. However, applicants should not have to go to the trouble of writing to publishers to ascertain the publication month (or day) before they even know if the examiner considers the reference to be pertinent. It would not be unreasonable for the rule to create a rebuttable presumption that if the month is not specified, that it is January. The applicant can then choose whether to prove otherwise, or to overcome the reference in some other way.

Also, I believe that it should be unnecessary to supply copies of any patent reference, not just US patents. I believe that is the position taken by several foreign patent offices.

111: I disagree with this amendment. Instead, I would propose just amending 1.111 to apply the present undue interference rule to a even first supplemental reply. The filing of a supplemental reply to a nonfinal action will of course restart the PTGA period for the office to consider applicant's response.

1.115: I do not think that the reference to the amendment should have to be in the first filed declaration. I would favor eliminating the present petition practice. So far, I agree with the proposed amendment. However, I would deal with the hardship situation too. If the new declaration, referring to the amendment, cannot be executed by all inventors, perhaps a petition akin to a 1.47 petition could be permitted to accept the declaration anyway.

Iver Cooper